

LIST OF AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adopted by the Judicial Council of California
Effective July 1, 2000

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Amendments to the California Rules of Court

Adopted by the Judicial Council

Effective July 1, 2000

Rule 14. Additional briefs

(a) **[Respondent's brief]** * * *

(b) **[Brief of amicus curiae in Supreme Court]** An individual or entity desiring to support or oppose (1) the granting of a petition for review or original writ in the Supreme Court, or (2) the accepting of a request for an answer to a certified question under rule 29.5, shall lodge a letter in the Supreme Court in lieu of a brief of amicus curiae. The letter shall state the nature of the applicant's interest and conform to the requirements of rule 28(e) regarding incorporation of documents by reference and annexed material. The letter shall be accompanied by proof of service on each party to the action or proceeding and, if the letter concerns a request for an answer to a certified question, on the requesting court. The court may, in its discretion, elect to consider the letter and may, in its discretion, cause the letter to be filed in the action or proceeding. The fact that a person lodged a letter on the question of granting the petition or of accepting the request does not constitute leave for that person to file a brief amicus on the merits if the petition is granted or the request is accepted; all persons seeking to file a brief amicus on the merits shall comply with the requirements of the next paragraph and briefs on the merits in the Supreme Court shall conform as nearly as possible to the requirements of rule 29.3(c).

A brief of amicus curiae in the Supreme Court on the merits of an action or proceeding may be filed on permission first obtained from the Chief Justice. To obtain permission, the applicant shall file with the clerk of the Supreme Court a signed request, accompanied by the proposed brief, stating the nature of the applicant's interest and setting forth facts or questions of law that have not adequately been presented by the parties and their relevancy to the disposition of the case. The request and proposed brief must be received by the court no later than 30 days after all briefs, other than supplemental briefs, that the parties are entitled to file pursuant to rule 29.3 either have been filed or can no longer be filed within the time limits prescribed by that rule. The Chief Justice may grant leave for later filing if the applicant presents specific and compelling reasons for the delay. ~~Any answer to an amicus curiae brief shall be filed by the parties no later than 20 days after the filing of~~

~~the amicus curiae brief. Before the amicus curiae brief or an answer is filed, it shall be served on all parties. If the brief is in support of the position of one of the parties, that fact shall be noted on the cover of the brief.~~

The Attorney General may file an amicus curiae brief without obtaining the Chief Justice's permission, unless the Attorney General is presenting the brief on behalf of another state officer or agency. The Attorney General shall file the brief within the time provided above for receipt of a request for permission to file an amicus curiae brief. The brief shall contain the information required in a request for permission to file an amicus curiae brief.

Before any amicus curiae brief is filed, it shall be served on all parties. The cover of the brief shall identify the party—if any—the brief supports.

Any party may file an answer within 20 days after an amicus curiae brief is filed. Before any answer is filed, it shall be served on all parties and the amicus curiae.

(Subd (b) amended effective July 1, 2000; previously amended effective January 1, 1959, July 1, 1989, July 1, 1995, January 1, 1997, July 1, 1997, and January 1, 2000; adopted effective January 1, 1951.)

- (c) **[Brief of amicus curiae in Court of Appeal]** A brief of amicus curiae in a Court of Appeal on the merits of an action or proceeding may be filed on permission first obtained from the presiding justice subject to conditions which may be prescribed. To obtain permission, the applicant shall file with the clerk of the reviewing court a signed request that states the nature of the applicant's interest and specifies the points to be argued in the brief. The request shall state that the applicant is familiar with the questions involved in the case and the scope of their presentation and believes there is a necessity for additional argument on the points specified. If the application is granted, the time within which the brief may be filed and the time within which any party to the appeal may file an answer to it shall be specified. ~~Before the amicus curiae brief or an answer is filed, it shall be served on all parties. If the brief is in support of the position of one of the parties, that fact shall be noted on the cover of the brief.~~

The Attorney General may file an amicus curiae brief without obtaining the presiding justice's permission, unless the Attorney General is presenting the brief on behalf of another state officer or agency. The Attorney General

shall file the brief within 14 days after the last respondent's brief—or the return—is filed. The brief shall contain the information required in a request for permission to file an amicus curiae brief. Any party may file an answer within 14 days after the Attorney General files a brief.

Before any amicus curiae brief is filed, it shall be served on all parties. Before any answer is filed, it shall be served on all parties and the amicus curiae. The cover of the brief shall identify the party—if any—the brief supports.

(Subd (c) amended effective July 1, 2000; previously amended and renumbered effective July 1, 1995; amended effective July 1, 1997.)

(d) [Briefs on cross-appeal] * * *

Rule 14 amended effective July 1, 2000; previously amended effective January 1, 1959, July 1, 1989, July 1, 1995, and January 1, 2000; previously amended and renumbered effective January 1, 1997, and July 1, 1997.

Rule 14.5. Requests for judicial notice

(a) [Motion required] In a cause pending before the Supreme Court or a Court of Appeal, a request that the court take judicial notice under Evidence Code section 459 shall be made by a motion under rule 41 filed separately from a brief or other paper.

(b) [Proposed order] The motion shall include a proposed order.

(c) [Copy of matter to be noticed] Unless the matter to be judicially noticed already appears in the record on appeal, a copy of the matter shall be filed and served with the motion, or the motion shall explain why it is not practicable to do so.

Rule 14.5 adopted effective July 1, 2000.

Rule 15. Form of briefs

(a)–(g) * * *

(h) [Unfair competition cases] In an unfair competition proceeding under Business and Professions Code section 17200 et seq., each brief and petition shall contain the following statement on the front cover: “Unfair competition case. (See Bus. & Prof. Code, § 17209 and Cal. Rules of Court, rule 16(d).)”

(Subd (h) adopted effective July 1, 2000.)

Rule 15 amended effective July 1, 2000; previously amended effective January 1, 1983, January 1, 1993, July 1, 1993, August 1, 1993, and July 1, 1996.

Rule 16. Service and filing

(a)–(c) * * *

(d) [Service in unfair competition proceedings] In an unfair competition proceeding under Business and Professions Code section 17200 et seq., each brief and each petition shall be served on the Attorney General of California and the district attorney of the county in which the lower court action was originally filed, as required by Business and Professions Code section 17209. Each brief or petition shall be served within three days of filing unless the time is extended for good cause, as provided in Business and Professions Code section 17209.

(Subd (d) adopted effective July 1, 2000.)

Rule 16 amended effective July 1, 2000; previously amended effective July 1, 1981.

Rule 24. Decision of reviewing court

(a)–(c) * * *

(d) [Discretionary early finality] Notwithstanding subdivision (a), a Court of Appeal may order that a decision granting a ~~peremptory writ~~ or denying a writ after issuance of an alternative writ or an order to show cause within its original jurisdiction shall become final as to that court

(1) Within a stated period less than 30 days or

(2) that it shall be final as to that court Immediately, if early finality is necessary to prevent mootness or ~~to prevent~~ frustration of the relief granted or is otherwise necessary in the interest of justice.

(Subd (d) amended effective July 1, 2000; relettered effective July 1, 1986; adopted effective July 1, 1983, as subd (c).)

Rule 24 amended effective July 1, 2000; previously amended effective July 1, 1983, July 1, 1984, July 1, 1986, July 1, 1989, January 1, 1991, January 1, 1993, and January 1, 1994.

Rule 28. Review by the Supreme Court

(a)–(d) * * *

(e) [Form of petition, answer, and reply]

(1)–(6) * * *

(7) Proof of service of the petition shall name each party represented by each attorney served. A petition accompanied by a defective proof of service shall be filed, but if a proper proof of service is not filed within five days, the court may strike the petition or impose a lesser sanction. Service in unfair competition cases under Business and Professions Code section 17200 et seq. must also comply with rule 16(d).

(Subd (e) amended effective July 1, 2000; previously amended effective January 1, 1983, July 1, 1988, July 1, 1989, July 1, 1996, and July 1, 1997; amended and relettered effective May 6, 1985.)

(f)–(g) * * *

Rule 28 amended effective July 1, 2000; previously amended effective January 1, 1983, July 1, 1984, May 6, 1985, July 1, 1986, July 1, 1988, July 1, 1989, January 1, 1996, July 1, 1996, and July 1, 1997.

Rule 39.57. Time for filing briefs in death penalty cases

(a) [Application] This rule applies to death penalty cases in which a ~~sentence of death was imposed~~ the trial commenced on or after January 1, 1997.

(Subd (a) amended effective July 1, 2000.)

(b)–(e) * * *

Rule 39.57 amended effective July 1, 2000; adopted effective March 1, 1997.

Rule 56. Original proceedings

- (a) **[Form and content of petition]** A petition to a reviewing court for a writ of mandate, certiorari, or prohibition, or for any other writ within its original jurisdiction, must be verified and shall set forth the matters required by law to support the petition, and also the following:
- (1) If the petition might lawfully have been made to a lower court in the first instance, it shall set forth the circumstances ~~which~~ that, in the opinion of the petitioner, render it proper that the writ should issue originally from the reviewing court;
 - (2) If any judge, court, board, or other officer or tribunal in the discharge of duties of a public character be named therein as respondent, the petition shall disclose the name of the real party in interest, if any, or the party whose interest would be directly affected by the proceeding; and
 - (3) If the petition seeks review of trial court proceedings that are also the subject of a pending appeal, the title of the petition shall include the notation "Related Appeal Pending," and the first paragraph shall set forth:
 - (i) (A) The title, superior court docket number, and appellate court docket number, if any, of the pending appeal, and
 - (ii) (B) If the petition is brought ~~pursuant to~~ under Penal Code section 1238.5, the date of filing of the notice of appeal.

Except as otherwise provided in rules 56–60, a petition shall, insofar as practicable, comply with rule 15.

The cover of the petition shall contain the title of the case, the name, address, and telephone number of the attorney filing the petition, the name of the trial judge, and the number of the case in the trial court, if any. The cover shall also contain the California State Bar membership number of the attorney filing the petition and of every attorney who joins in the petition. California State Bar membership numbers of the supervisors in a law firm or public law office of the attorney responsible for the case need not be stated.

~~Until July 1, 1994, a petition shall not be rejected for filing because the attorney's California State Bar membership number does not appear on the cover, but it may be stricken if the attorney does not furnish the number promptly upon request by the clerk.~~

(Subd (a) amended effective July 1, 2000; previously amended effective July 1, 1976, July 1, 1980, and August 1, 1993.)

- (b) [Points and authorities and service]** A petition for the issuance of such a writ shall be accompanied by points and authorities and by proof of service of both on the respondent and any real party in interest named in the petition. The proof of service shall name each party represented by each attorney served; a petition accompanied by a defective proof of service shall be filed, but if a proper proof of service is not filed within five days, the court may strike the petition or impose a lesser sanction. No statement in opposition to the petition is required unless requested by the court, but within five days after service and filing, the respondent or any real party in interest or both, separately or jointly, may serve and file points and authorities in opposition and a statement of any fact considered material not included in the petition. The court in its discretion (1) may allow the filing of the petition without service, and (2) may deny the petition or issue an alternative writ without first requesting the filing of opposition. Additionally, service in unfair competition cases under Business and Professions Code section 17200 et seq. must comply with rule 16(d).

(Subd (b) amended effective July 1, 2000; previously amended effective January 1, 1951, July 1, 1964, January 1, 1984, and July 1, 1985.)

(c) * * *

- (d) [Supporting documents—tabbed, paginated, and listed]** Documents submitted in support of the petition shall
- (1) Be bound together at the end of the petition or in a separate volumes not to exceed 300 pages each, with consecutive pagination throughout;
 - (2) Be index-tabbed by number or letter, with each exhibit consecutively paginated; and
 - (3) Begin with a table of contents listing each document by title and its index-tab number or letter.

The clerk shall accept for filing petitions and supporting documents not in compliance with this subdivision; but the court may give the petitioner notice requiring that the petition and documents be brought

into compliance within a stated reasonable time, or the petition may be stricken or denied summarily.

(Subd (d) amended effective July 1, 2000; adopted effective January 1, 1988.)

(e)–(h) * * *

(i) [Unfair competition cases] In an unfair competition proceeding under Business and Professions Code section 17200 et seq., each brief and each petition shall contain the following statement on the front cover: “Unfair competition case. (See Bus. & Prof. Code, § 17209 and Cal. Rules of Court, rule 16(d).)”

(Subd (i) adopted effective July 1, 2000.)

Rule 56 amended effective July 1, 2000; previously amended effective January 1, 1984, July 1, 1985, January 1, 1988, August 1, 1993, and January 1, 1997.

Rule 105. Briefs and records

(a) * * *

(b) [Brief of amicus curiae] A brief of amicus curiae may be filed on permission first obtained from the presiding judge, ~~and~~ subject to conditions ~~which~~ he or she may prescribe. If ~~such~~ the brief is in support of the position of one of the parties, that fact shall be noted in ~~its~~ the brief’s heading.

The Attorney General may file an amicus curiae brief without obtaining the presiding judge’s permission, unless the Attorney General is presenting the brief on behalf of another state officer or agency; but the presiding judge may prescribe reasonable conditions for filing and answering the brief.

(Subd (b) amended effective July 1, 2000.)

(c)–(d) * * *

(e) [Service and filing] Every brief shall, before filing, be served by the party filing it on each adverse party who has appeared separately, and every brief of amicus curiae shall, before filing, be served on all parties to the appeal. The original brief, with proof of service thereof, shall be filed with the clerk. The clerk shall not file any brief which does not conform to these rules or which is tendered to him for filing after the

time fixed by these rules or by any order extending or fixing the time therefor, unless by order of the presiding judge. The presiding judge may make such order, in his discretion, where the infraction of the rules is of minor character and will not affect the rights of the parties or seriously hamper the court in its examination of the appeal. Service in unfair competition cases under Business and Professions Code section 17209 must also comply with rule 16(d).

(Subd (e) amended effective July 1, 2000.)

(f)–(g) * * *

(h) [Unfair competition cases] In an unfair competition proceeding under Business and Professions Code section 17200 et seq., each brief and each petition shall contain the following statement on the front cover: “Unfair competition case. (See Bus. & Prof. Code, § 17209 and Cal. Rules of Court, rule 16(d).)”

(Subd (h) adopted effective July 1, 2000.)

Rule 105 amended effective July 1, 2000; previously amended effective January 1, 1967, July 1, 1969, July 1, 1971, July 1, 1972, January 1, 1976, July 1, 1976, July 1, 1977, July 1, 1980, July 1, 1996, July 1, 1997, and July 1, 1999.

Rule 135. Costs on appeal

(a)–(d) * * *

(e) [Procedure for imposing sanctions]

- (1) A party seeking monetary sanctions on the ground that the appeal is frivolous or taken solely for purposes of delay or that there has been an unreasonable infraction of the rules governing appeals shall serve and file a motion under rule 104 no later than 10 days after the time the appellant’s reply brief is due or at the time of filing a motion to dismiss the appeal.
- (2) A party who filed a motion to dismiss the appeal before filing a brief may make or renew the motion for sanctions up to 10 days after the time the appellant’s reply brief is due.
- (3) A motion under (1) or (2) shall include a declaration supporting the amount of sanctions being sought.

- (4) The court shall notify a party or an attorney if it is considering imposing sanctions on its own motion or on motion of a party.
- (5) The party or attorney against whom sanctions are sought may serve and file a written opposition within 10 days after notice from the court that it is considering imposing sanctions; failure to do so shall not be deemed consent to the award of sanctions. An opposition should not ordinarily be filed unless the court has sent notice that it is considering imposing sanctions or requests the party's or attorney's views.
- (6) Unless otherwise ordered, the issue of sanctions and their amount will be argued at the time of oral argument on the merits of the appeal.

(Subd (e) adopted effective July 1, 2000.)

Rule 135 amended effective July 1, 2000; previously amended effective January 1, 1987 and July 1, 1991.

Rule 201. Form of papers presented for filing

(a)–(e) * * *

(f) [Format of first page] The first page of each paper shall be in the following form:

- (1) In the space commencing one inch from the top of the page with line 1, to the left of the center of the page, the name, office address, or, if none, ~~the~~ residence address, ~~and~~ telephone number, fax number and e-mail address (if provided), and State Bar membership number of the attorney for the party in whose behalf the paper is presented, or of the party if he or she is appearing in person; but the name, office address, ~~and~~ telephone number, and State Bar membership number of the attorney printed on the page shall be sufficient. Inclusion of a fax number or e-mail address on any document is optional, and its inclusion shall not be considered consent to service by fax or e-mail unless otherwise provided by law.

(2)–(7) * * *

(Subd (f) amended effective July 1, 2000; previously amended effective January 1, 1978; amended and relettered effective July 1, 1993 and July 1, 1999; adopted effective January 1, 1949, as subd (c).)

- (g) **[Footer]** Except for exhibits, each paper filed with the court shall bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer shall contain the title of the paper (examples: “Complaint,” “XYZ Corp.’s Motion for Summary Judgment”) or some clear and concise abbreviation. The title of the paper shall be in at least 10-point type.

(Subd (g) amended effective July 1, 2000; relettered effective July 1, 1999; adopted effective January 1, 1999, as subd (f).)

(h)–(n) * * *

Rule 201 amended effective July 1, 2000; previously amended effective April 1, 1962, May 1, 1962, July 1, 1964, January 1, 1966, July 1, 1969, July 1, 1971, January 1, 1973, January 1, 1976, January 1, 1978, January 1, 1984, April 1, 1990, July 1, 1990, January 1, 1992, July 1, 1992, January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1998, January 1, 1999, and July 1, 1999; adopted effective January 1, 1949.

~~Rule 302. Form and format—preemptive effect~~

~~By enacting the rules in this title, the Judicial Council intends to occupy the field of form and format of papers, motions, demurrers, discovery, and pleadings. No trial court, or any division or branch of a trial court, shall enact or enforce any local rule concerning the form or format of papers, motions, demurrers, discovery, or pleadings. The rules set forth in this title alone shall govern the form and format of papers, motions, demurrers, discovery, pleadings, preliminary injunctions and bonds, and ex parte applications and orders. All local rules concerning the form and format of papers, motions, demurrers, discovery, and pleadings are null and void as of the effective date of this rule.~~

Rule 302 repealed effective July 1, 2000; adopted effective July 1, 1997.

Rule 313. Memorandum of points and authorities

(a)–(d) * * *

- (e) **[Pagination of memorandum]** Notwithstanding any other rule, the pagination of a memorandum of points and authorities that includes a table of contents and a table of authorities shall be governed by this

rule. In the case of such a memorandum, the caption page or pages shall not be numbered; the pages of the tables shall be numbered consecutively using lower case Roman numerals starting on the first page of the tables; and the pages of the text shall be numbered consecutively using Arabic numerals starting on the first page of the text.

(Subd (e) adopted effective July 1, 2000.)

~~(e)~~(f) * * *

(Subd (f) relettered effective July 1, 2000; amended effective July 1, 1997; adopted effective January 1, 1992, as subd (e).)

~~(f)~~(g) * * *

(Subd (g) relettered effective July 1, 2000; adopted effective July 1, 1997, as subd (f).)

~~(g)~~(h) * * *

(Subd (h) relettered effective July 1, 2000; adopted effective July 1, 1997, as subd (g).)

~~(h)~~(i) * * *

(Subd (i) relettered effective July 1, 2000; adopted effective July 1, 1997, as subd (h).)

~~(i)~~(j) * * *

(Subd (j) relettered effective July 1, 2000; adopted effective July 1, 1997, as subd (i).)

Rule 313 amended effective July 1, 2000; previously amended effective July 1, 1984, January 1, 1992, and July 1, 1997.

Rule 324. Tentative rulings ~~procedure~~

(a) [Tentative ruling procedures; ~~notice of appearance~~] A trial court that ~~follows~~ offers a tentative ruling procedure in civil law and motion matters ~~and requires a party to give notice of intent to appear at oral argument~~ shall follow one of the following procedures:

(1) [Notice of intent to appear required] The court shall make its tentative ruling available by telephone and also, at the option of the

court, by any other method designated by the court, by 3:30 by no later than 3:00 p.m. the court day before the scheduled hearing. If the court desires oral argument, the tentative ruling shall so direct. The tentative ruling may also note any issues on which the court wishes the parties to provide further argument, and whether the court wishes to have the parties appear. Oral argument shall be permitted only if a party notifies the court. If the court has not directed argument, oral argument shall be permitted only if a party notifies the all other party parties and the court by telephone by 4:30 4:00 p.m. on the court day prior to the hearing of the party's intention to appear, or the court, in its discretion, directs oral argument. A party shall notify all other parties by telephone or in person. The court shall accept notice by telephone and, at its discretion, may also designate alternative methods by which a party may notify the court of the party's intention to appear. The tentative ruling shall become the ruling of the court if the court has not directed oral argument by its tentative ruling and notice of intent to appear has not been given.

- (2) [No notice of intent to appear required] The court shall make its tentative ruling available by telephone and also, at the option of the court, by any other method designated by the court, by a specified time prior to the hearing. The tentative ruling may note any issues on which the court wishes the parties to provide further argument at the hearing. This procedure shall not require the parties to give notice of intent to appear, and the tentative ruling shall not automatically become the ruling of the court if such notice is not given. The tentative ruling, or such other ruling as the court may render, shall not become the final ruling of the court until the hearing.

(Subd (a) amended effective July 1, 2000.)

- ~~(b) [Exceptions] This rule does not apply to any case in which the court (1) issues a tentative ruling or posts a calendar note but does not require a party to give notice of intent to appear at the hearing, or (2) announces its tentative ruling at the time of oral argument.~~

- (b) [No other procedures permitted]** Other than following one of the tentative ruling procedures authorized in subdivision (a), courts shall not issue tentative rulings except (1) by posting a calendar note containing tentative rulings on the day of the hearing, or (2) by announcing the tentative ruling at the time of oral argument.

(Subd (b) repealed and adopted effective July 1, 2000.)

- (c) **[Notice of procedure]** A court that follows one of the procedures described in subdivision (a) shall so state in its local rules, ~~and shall notify the Judicial Council. A local rule amendment or policy imposing or removing the requirement of notice of intent to appear shall take effect only on January 1 or July 1 and notice shall be sent to the Judicial Council at least 30 days in advance of the effective date of the rule or amendment. A local rule or policy imposing the requirements of subdivision (a) shall be effective only if enforced by all the judges of the court or branch.~~ The local rule or policy shall specify the telephone number for obtaining the tentative rulings and the time at by which the rulings are normally will be available, if they are normally available before 3:30 p.m. If a court or a branch of a court adopts a tentative ruling procedure, that procedure shall be used by all judges in the court or branch who issue tentative rulings. This rule does not require any judge to issue tentative rulings.

(Subd (c) amended effective July 1, 2000.)

Rule 324 amended effective July 1, 2000; adopted effective July 1, 1992.

Rule 325. Demurrers

(a) * * *

- (b) **[Notice of hearing]** A party filing a demurrer shall serve and file therewith a notice of hearing which shall specify a hearing date in accordance with the provisions of Code of Civil Procedure section 1005. Demurrers shall be set for hearing not more than 35 days following the filing of the demurrer or on the first date available to the court thereafter. For good cause shown, the court may order the hearing held on an earlier or later day on notice prescribed by the court.

(Subd (b) amended effective July 1, 2000.)

(c)–(g) * * *

Rule 325 amended effective July 1, 2000; previously amended July 1, 1984 and July 1, 1995; adopted effective January 1, 1984.

Rule 376. Motion to be relieved as counsel

- (a) **[Format Notice]** A notice of motion and motion to be relieved as counsel under Code of Civil Procedure section 284(2) shall be directed to the client and shall be ~~worded in clear, simple and nontechnical terms.~~ made on the *Notice of Motion and Motion to Be Relieved as Counsel—Civil* form (MC-051).

(Subd (a) amended effective July 1, 2000.)

- (b) **[Memorandum of points and authorities]** Notwithstanding any other rule of court, no memorandum of points and authorities is required to be filed or served with a motion to be relieved as counsel.

(Subd (b) adopted effective July 1, 2000.)

- ~~(b)~~(c) **[Declaration]** The ~~notice~~ motion to be relieved as counsel shall be accompanied by a declaration on the *Declaration in Support of Attorney's Motion to Be Relieved as Counsel—Civil* form (MC-052). The declaration shall state ~~stating~~ in general terms and without compromising the confidentiality of the attorney-client relationship why a motion under Code of Civil Procedure section 284(2) is brought instead of filing a consent under Code of Civil Procedure section 284(1).

(Subd (c) relettered and amended effective July 1, 2000; adopted effective July 1, 1984, as subd (b).)

- ~~(e)~~(d) **[Service]** The notice of motion and motion and the declaration shall be served on the client and on all other parties who have appeared in the case. The notice may be by personal service or mail. If the notice is served on the client by mail under Code of Civil Procedure section 1013, it shall be accompanied by a declaration stating facts showing that either (1) the service address is the current residence or business address of the client or (2) the service address is the last known residence or business address of the client and the attorney has been unable to locate a more current address after making reasonable efforts to do so within 30 days prior to the filing of the motion to be relieved. “Current” means that the address was confirmed within 30 days prior to the filing of the motion to be relieved. Merely demonstrating that the notice was sent to the client’s last known address and was not returned will not, by itself, be sufficient to demonstrate that the address is current. If the service is by mail, Code of Civil Procedure section 1011(b) shall apply.

(Subd (d) relettered and amended effective July 1, 2000; previously amended effective July 1, 1991, and January 1, 1996; adopted effective July 1, 1984, as subd (c).)

~~(d)~~**(e) [Order]** The proposed order relieving counsel shall be served as specified in subdivision (c) for service of the notice. The order shall state the last known address and telephone number of the client which shall be the address and number of record for that party subject to Code of Civil Procedure section 1011(b). The order shall inform the client that failure to take appropriate action may result in serious legal consequences and the client might want to seek legal assistance. prepared on the *Order Granting Attorney's Motion to Be Relieved as Counsel—Civil* form (MC-053) and shall be lodged with the court and served on the client with the moving papers. The order shall specify all hearing dates scheduled in the action or proceeding, including the date of trial, if known. If no hearing date is presently scheduled, the court may set one and specify the date in the order. After the order is signed, a copy of the signed order shall be served on the client and on all parties that have appeared in the case. The court may delay the effective date of the order relieving counsel until proof of service of a copy of the signed order on the client has been filed with the court.

~~The order shall inform a client that is a corporation or unincorporated association, or a client who is a guardian ad litem (except a guardian ad litem who is a relative of a child in a paternity action), personal representative, trustee, guardian, conservator, or other probate fiduciary, that except for the limited purpose of obtaining or opposing an injunction or temporary restraining order to prohibit harassment or a protective order under the Family Code, (1) the client may participate in the action only through an attorney, (2) the client maintains all the obligations of a party, and (3) failure to retain an attorney may lead to an order striking the client's pleadings or to entry of the client's default.~~

(Subd (e) relettered and amended effective July 1, 2000; previously amended effective January 1, 1996; adopted effective July 1, 1984, as subd (d).)

Rule 376 amended effective January 1, 1996; previously amended effective July 1, 1991; adopted effective July 1, 1984.

Rule 379. Ex parte applications and orders in civil law and motion proceedings in trial courts and discovery proceedings in family law and probate proceedings

(a) * * *

- (b) **[Notice]** A party seeking an ex parte order shall notify all parties no later than 10:00 a.m. the court day before the ex parte appearance, absent a showing of exceptional circumstances. A declaration of notice, including the date, time, manner, and name of the party informed, the relief sought, any response, and whether opposition is expected, or a declaration stating reasons why notice should not be required, shall accompany every request for an ex parte order.

A request for an ex parte order shall state the name, address, and telephone number of any attorney known to the applicant to be an attorney for any party or, if no such attorney is known, the name, address, and telephone number of such party if known to the applicant.

When an application for an ex parte order has been made to the court and has been refused in whole or in part, any subsequent application of the same character or for the same relief, although made upon an alleged different state of facts, shall include a full disclosure of any prior applications and the court's actions.

(Subd (b) amended effective July 1, 2000; previously amended July 1, 1999; adopted effective July 1, 1997.)

(c)–(g) * * *

Rule 379 amended effective July 1, 2000; previously amended effective July 1, 1997 and July 1, 1999; adopted effective January 1, 1984.

Rule 388. Default judgments

- (a) **[Documents to be submitted]** A party seeking a default judgment on declarations shall use mandatory Judicial Council Form 982(a)(6) and shall include in the documents filed with the clerk the following:
- (1) Except in unlawful detainer cases, a brief summary of the case identifying the parties and the nature of plaintiff's claim;
 - (2) Declarations or other admissible evidence in support of the judgment requested;
 - (3) Interest computations as necessary;
 - (4) A memorandum of costs and disbursements;

- (5) A declaration of nonmilitary status for each defendant against whom judgment is sought;
 - (6) A proposed form of judgment;
 - (7) A dismissal of all parties against whom judgment is not sought or an application for separate judgment against specified parties under Code of Civil Procedure section 579, supported by a showing of grounds for each judgment;
 - (8) Exhibits as necessary; and
 - (9) A request for attorney fees if allowed by statute or by the agreement of the parties.
- (b) [Fee schedule]** A court may by local rule establish a schedule of attorney fees to be used by that court in determining the reasonable amount of attorney fees to be allowed in the case of a default judgment.

Rule 388 adopted effective July 1, 2000.

Rule 391. Preparation of order

- (a) [Prevailing party to prepare]** Unless the parties waive notice or the court orders otherwise, the party prevailing on any motion shall, within five days of the ruling, mail or deliver a proposed order to the other party for approval ~~as to form~~ conforming to the court's order. Within five days after the mailing or delivery, the other party shall notify the prevailing party as to whether or not the proposed order is so approved ~~as to form~~. The opposing party shall state any reasons for disapproval. Failure to notify the prevailing party within the time required ~~is~~ shall be deemed an approval ~~of the order as to form~~. Code of Civil Procedure section 1013, relating to service of papers by mail, does not apply to this rule.

(Subd (a) amended effective July 1, 2000; adopted effective July 1, 1992.)

- (b) [Submission of proposed order to court]** The prevailing party shall, upon expiration of the five-day period provided for approval, promptly transmit the proposed order to the court together with a summary of any responses of the other parties or a statement that no responses were received.

(Subd (b) amended effective July 1, 2000; adopted effective July 1, 1992.)

- (c) **[Failure of prevailing party to prepare form]** If the prevailing party fails to prepare and submit a proposed order as required by (a) and (b) above, any other party may do so.

(Subd (c) amended effective July 1, 2000; adopted effective July 1, 1992.)

- (d) **[Motion unopposed]** This rule shall not apply if the motion was unopposed and a proposed order was submitted with the moving papers, unless otherwise ordered by the court.

(Subd (d) adopted effective July 1, 2000.)

Rule 391 amended effective July 1, 2000; adopted effective July 1, 1992.

Rule 501. Form of papers presented for filing

(a)–(e) * * *

- (f) **[Format of first page]** The first page of each paper shall be in the following form:

- (1) In the space commencing one inch from the top of the page with line 1, to the left of the center of the page, the name, office address, or, if none, ~~the~~ residence address, ~~and~~ telephone number, fax number and e-mail address (if provided), and State Bar membership number of the attorney for the party in whose behalf the paper is presented, or of the party if he or she is appearing in person; but the name, office address, ~~and~~ telephone number, and State Bar membership number of the attorney printed on the page shall be sufficient. Inclusion of a fax number or e-mail address on any document is optional, and its inclusion shall not be considered consent to service by fax or e-mail unless otherwise provided by law.

(2)–(9) * * *

(Subd (f) amended effective July 1, 2000; previously amended effective January 1, 1978 and January 1, 1999; amended and relettered effective July 1, 1993 and July 1, 1999; adopted effective January 5, 1953, as subd (c).)

- (g) **[Footer]** Except for exhibits, each paper filed with the court shall bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer shall contain the title of the paper (examples: “Complaint,” “XYZ Corp.’s Motion for Summary Judgment”) or some clear and concise abbreviation. The title of the paper shall be in at least 10-point type.

(Subd (g) amended effective July 1, 2000; relettered effective July 1, 1999; adopted effective January 1, 1999, as subd (f).)

(h)–(l) * * *

Rule 501 amended effective July 1, 2000; previously amended effective April 1, 1962, May 1, 1962, July 1, 1964, July 1, 1971, January 1, 1973, January 1, 1976, January 1, 1984, January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1999, and July 1, 1999; adopted effective January 5, 1953.

Rule 828. Traffic court—trial by written declaration

(a) * * *

(b) [Procedure]

(1)–(4) * * *

- (5) *(Instructions to arresting officer)* If the clerk receives defendant’s *Request for Trial by Written Declaration* (form TR-205) and bail by the due date, the clerk shall deliver or mail to the arresting officer’s agency *Notice and Instructions to Arresting Officer* (form TR-210) and *Officer’s Declaration* (form TR-235) with a copy of the *Notice to Appear* and a specified return date for receiving the officer’s declaration. After receipt of the officer’s declaration, or at the close of the officer’s return date if no officer’s declaration is filed, the clerk shall submit the case file with all declarations and other evidence received to the court for decision.

(6)–(8) * * *

(Subd (b) amended effective July 1, 2000; previously amended effective January 1, 2000.)

(c)–(j) * * *

Rule 828 amended effective July 1, 2000; previously amended effective January 1, 2000; adopted effective January 1, 1999.

Rule 981.1. Preemption of local rules

(a) * * *

(b) **[Applicability]** This rule applies to all matters identified above except: (i) trial and post-trial proceedings including but not limited to motions in limine (see rule 312-(d)); ~~and~~ (ii) proceedings under Code of Civil Procedure sections 527.6, 527.7, and 527.8, ~~the Penal Code, the Family Code, the Probate Code, and the Welfare and Institutions Code, and the~~ Penal Code, and all other criminal proceedings; and (iii) local court rules adopted under the Trial Court Delay Reduction Act.

(Subd (b) amended effective July 1, 2000; adopted effective July 1, 2000.)

(c) **[Implementation]** This rule is effective July 1, 2000. Courts shall amend their local rules effective July 1, 2000, or earlier to comply with this rule. ~~Any proposals for local rules to be considered for adoption as statewide rules effective July 1, 2000, should be submitted to the Judicial Council no later than September 1, 1999.~~ Notwithstanding any other provisions of this rule, trial courts may continue to enforce local rules relating to class actions and eminent domain proceedings and local rules and forms relating to receivership proceedings until January 1, 2002.

(Subd (c) amended effective July 1, 2000; adopted effective July 1, 2000.)

Rule 981.1 renumbered and amended effective July 1, 2000; adopted effective July 1, 1997, as rule 302 (rule 302 repealed effective July 1, 2000).

Rule 1280.10 Procedures for hearings to set aside voluntary declarations of paternity when no previous action has been filed

(a) **[Purpose]** This rule provides a procedure for a hearing to set aside a voluntary declaration of paternity under Family Code section 7575(c).

(b) **[Filing of request for hearing]** A person who has signed a voluntary declaration of paternity may ask that the declaration be set aside by filing a completed *Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity* (Form 1296.77).

- (c) **[Creation of court file]** Upon receipt of the completed request for hearing, the clerk shall assign a case number, and schedule a court date. The court date shall be no earlier than 31 days after the date of filing and no later than 45 days after the date of filing.
- (d) **[Notice of hearing]** The person who is asking that the voluntary declaration of paternity be set aside shall serve, either by personal service or by mail, the request for hearing and a blank *Responsive Declaration to Application to Set Aside Voluntary Declaration of Paternity* (Form 1296.78) on the other person who signed the voluntary declaration of paternity. If the local child support agency is providing services in the case, the person requesting the set aside shall also serve a copy of the request for hearing on the agency.
- (e) **[Order after hearing]** The decision of the court shall be written on the *Order After Hearing on Motion to Set Aside Voluntary Declaration of Paternity* (Form 1276.79). If the voluntary declaration of paternity is set aside, the clerk shall mail a copy of the order to the Department of Child Support Services in order that the voluntary declaration of paternity be purged from the records.
- (f) **[Use of court file in subsequent proceedings]** Pleadings in any subsequent proceedings, including but not limited to proceedings under the Uniform Parentage Act, that involve the parties and child named in the voluntary declaration of paternity shall be filed in the court file that was initiated by the filing of the *Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity*.

Rule 1280.10 adopted effective July 1, 2000.

Rule 1280.11 Minimum standards of training for court clerk staff whose assignment includes Title IV-D child support cases

Any court clerk whose assignment includes Title IV-D child support cases shall participate in a minimum of six hours of continuing education annually in federal and state laws concerning child support and related issues.

Rule 1280.11 adopted effective July 1, 2000.

Rule 1432. Petition for modification

(a)–(d) * * *

- (e) **[Notice of petition and hearing (§§ 388, 778)]** The clerk shall cause notice of the hearing to the persons and in the same manner prescribed by rule ~~1406~~1407. The present custodian of a dependent child and the tribe of a dependent Indian child shall be similarly notified.

(Subd (e) amended effective July 1, 2000; previously amended effective January 1, 1992 and July 1, 1995; repealed and adopted effective January 1, 1991.)

- (f) **[Conduct of hearing — § 388]** The party requesting the modification under section 388 shall have the burden of proof. If the request is for the removal of the child from the child's home, the party must show by clear and convincing evidence that the grounds for removal in section 361(b) exist. If the request is for removal to a more restrictive level of placement, the party must show by clear and convincing evidence that the change is necessary to protect the physical or emotional well-being of the child. All other requests require a preponderance of the evidence to show that the child's welfare requires such a modification.

~~With the exception of a request for removal from the home of the parent or guardian or removal to a more restrictive level of placement, proof may be by declaration and other documentary evidence, or by testimony, or both, at the discretion of the court. The hearing on a request for removal from the home of the parent or guardian, or for removal to a more restrictive level of placement, shall be conducted as a disposition hearing under rules 1455 and 1456 if: (1) the request is for removal from the home of the parent or guardian or to a more restrictive level of placement or (2) there is a due process right to confront and cross-examine witnesses. Otherwise, proof may be by declaration and other documentary evidence, or by testimony, or both, at the discretion of the court.~~

(Subd (f) amended effective July 1, 2000)

- (g) ***

Rule 1432 amended effective July 1, 2000; previously amended effective January 1, 1992 and July 1, 1995; adopted effective January 1, 1991.

Rule 1452. Failure to cooperate with services (§ 360(b))

- (a) **[Petition]** If the court has ordered services under section 360~~(a)(b)~~, and within the time period consistent with section ~~330~~301 the family is unable or unwilling to cooperate with the services provided, a petition may be filed as provided in section 360~~(b)(c)~~.

(Subd (a) amended effective July 1, 2000.)

(b) * * *

Rule 1452 amended effective July 1, 2000; adopted effective January 1, 1990.

Rule 6.44. Probate and Mental Health Advisory Committee

(a) [Area of focus] The committee shall make recommendations to the council for improving the administration of justice in proceedings involving

(1) Decedents' estates, trusts, conservatorships, guardianships, and other probate matters; and

(2) Mental health and developmental disabilities issues.

(b) [Additional duty] The committee shall coordinate activities and work with the Family and Juvenile Law Advisory Committee in areas of common concern and interest.

(c) [Membership] The committee shall include at least one member from each of the following categories:

(1) Judicial officer with experience in probate;

(2) Lawyer whose primary practice involves decedents' estates, trusts, guardianships, conservatorships, or elder abuse law;

(3) Lawyer, examiner, or probate investigator who works for the court on probate or mental health matters;

(4) Person knowledgeable in mental health or developmental disabilities or private management of probate matters; and

(5) County counsel, public guardian, or other similar public officer familiar with guardianship and conservatorship issues.

Rule 6.44 adopted effective July 1, 2000.